

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the matter of the application of	)	
Michigan Gas Utilities Corporation	)	Case No. U-15700-R
For a gas cost recovery reconciliation	)	
proceeding for the 12-month period	)	
ended December 31, 2009	)	
_____	)	

**NOTICE OF PROPOSAL FOR DECISION**

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on October 7, 2011.

Exceptions, if any, must be filed with the Michigan Public Service Commission, P.O. Box 30221, 6545 Mercantile Way, Lansing, Michigan 48909, and served on all other parties of record on or before October 19, 2011, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before October 28, 2011. **The Commission has selected this case for participation in its Paperless Electronic Filings Program. No paper documents will be required to be filed in this case.**

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

MICHIGAN ADMINISTRATIVE HEARING  
SYSTEM  
For the Michigan Public Service Commission

---

Mark D. Eyster  
Administrative Law Judge

October 7, 2011  
Lansing, Michigan

STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the matter of the application of	)	
Michigan Gas Utilities Corporation	)	Case No. U-15700-R
For a gas cost recovery reconciliation	)	
proceeding for the 12-month period	)	
ended December 31, 2009	)	
_____	)	

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

On June 28, 2010, the Michigan Gas Utilities Corporation (MGUC or Company) filed its application requesting that the Michigan Public Service Commission (Commission) conduct a gas cost recovery (GCR) reconciliation proceeding and approve MGUC's reconciliation determinations for the 12-month period ended March 31, 2010 (Plan year). On September 2, 2010, a pre-hearing conference was held before Administrative Law Judge, James N. Rigas. Counsel appeared on behalf of MGUC, the Michigan Public Service Commission staff (Staff), the Attorney General for the State of Michigan, and the Residential Ratepayer Consortium (RRC). At the pre-hearing conference, intervenor status was granted to the Attorney General and RRC and a schedule was adopted. Because of retirements, on December 14, 2010, the case was reassigned to Administrative Law Judge Mark D. Eyster and, on January 4, 2011, Staff counsel was substituted. An evidentiary hearing was conducted on April 26, 2011, at

which the pre-filed testimony of the witnesses was bound into the record, exhibits were admitted into evidence, and cross-examination was conducted. On May 25, 2011, briefs were filed by MGUC and the Attorney General. On June 9, 2011, reply briefs were filed by MGUC, the Attorney General, and RRC. On June 27, 2011, RRC withdrew its reply brief. The record consists of testimony contained in the 176 page transcript and 36 exhibits.

## **FINDINGS OF FACT**

### **Introduction**

MGUC presented the testimony of David J. Tyler, MGUC's Manager, Regulatory Services for the State of Michigan, and Kent E. Huzzey, Manager of Gas Supply for Integrys Business Support. Mr. Tyler provided testimony to support MGUC's application and rebuttal testimony in response to testimony submitted by the Attorney General. He sponsored exhibits A-2 through A-6, A-9, and A-14 through A-18. Mr. Huzzey provided testimony "to demonstrate that MGUC's 2009-2010 [GCR] expenditures were incurred in a reasonable and prudent manner", to show "the consistency of MGUC's actual results in 2009-2010 as compared to the GCR Plan approved by the MPSC", to explain "significant events and purchasing activity for the period April 1, 2009 through March 31, 2010", and to address "items not anticipated in MGUC's 2009-2010 GCR Plan." 2 Tr 64-65. Additionally, Mr. Huzzey provided rebuttal testimony in response to the Attorney General's witness, Sebastian Coppola and sponsored exhibits A-1, A-7 through A-13, A-19, and A-20.

The Attorney General presented the testimony of Sebastian Coppola, an independent business consultant. Among other things, his testimony addressed a “consistent high level of under-recoveries at the end of the GCR period”, MGUC’s “sale of temporary excess gas supply to off-system companies”, and MGUC’s “utilization of its storage facilities and storage service contracts.” 2 Tr 101. Mr. Coppola sponsored exhibits AG-1 through AG-8.

RRC presented the testimony of Frank J. Hollewa, an independent energy consultant, d/b/a EPEC. Mr. Hollewa’s testimony addressed his analysis of MGUC’s filing.

#### Overview of Undisputed Matters

There were very few factual disputes presented in this case. The following is an overview of the many factual findings established by the testimonial and documentary evidence presented by MGUC.

For the twelve month period ending March 31, 2010, MGUC had a cumulative under-recovery of \$3,860,325. 2 Tr 27. Exh A-4. MGUC used a “cash-flow cost of gas method” to compute \$15,220 of interest on the under-recovery. By adding the interest amount of \$15,220 to the cumulative under-recovery of \$3,860,325, MGUC’s cumulative under recovered balance, plus accrued interest, for the Plan year was \$3,875,545. 2 Tr 33. While the Attorney General argues for a disallowance of the interest, the calculation of these numbers is not disputed.

MGUC has long-haul capacity contracts on the ANR-SE, ANR-SW, and PEPL pipelines. Exh. A-12. 2 Tr 74. MGUC’s current portfolio of firm

transportation capacity is contracted through 2014-16 on ANR and through 2019 on PEPL. 2 Tr 75. During the Plan year MGUC used or released 78% of its capacity on ANR- SE, 104% of its capacity on ANR-SW, and 98% of its capacity on PEPL. Exh. A-12.

Gas placed in storage during the Plan year was priced at the monthly delivered city gate price and when withdrawn from storage was priced using the weighted average cost of gas (WACOG) method. 2 Tr 31.

MGUC's witness, Mr. Tyler, explained MGUC's methodology for recording the monthly cost of gas, by stating, at 2 Tr 32, that:

For financial reporting purposes, each month MGUC records an estimate of the cost of gas for that month. At the end of the following month, after all actual costs have been determined from data provided by suppliers, the following procedure is followed:

- (1) reverse the estimate recorded in the previous month and book the actual Mcf purchased and produced with the associated costs;
- (2) calculate the actual over/(under)-recovery using actual volumes and dollars; and
- (3) calculate the interest on the over/(under)-recovery.

Therefore, the cost of gas and volumes reported for each month include: (1) actual costs for the previous month, (2) the reversal of estimated costs from the previous month, and (3) an estimate of costs for the current month.

During the Plan year, MGUC purchased forty-three percent of its supply at fixed prices and fifty-seven percent at index prices. 2 Tr 66. At the urging of Staff, MGUC deviated from the Plan that called for purchases of thirty-three percent at fixed prices and sixty-seven percent at index prices. 2 Tr 66. MGUC made fixed price purchased pursuant to its Quartile Analysis and Fixed Price Plan. 2 Tr 67-68. The majority of the MGUC's index price purchases were made on a monthly basis through a request for proposal process. 2 Tr 69. Purchased

volumes were determined according to the Plan and storage volumes. 2 Tr 69. MGUC's Plan forecasted prices that were \$2.31/MMBtu higher than actual index prices. 2 Tr 67. MGUC contracted for peaking services that accounted for purchases equaling 267,538 Dth. 2 Tr 69-70. MGUC also entered into several base load packages of index priced gas and purchased intra-month supplies to meet operational load requirements and to increase storage volumes. 2 Tr 70.

#### GCR Under- Recovery and Interest

At 2 Tr 28-29, MGUC's witness, Mr. Tyler explains the reasons for the under-recovery by stating that:

The Company's actual experience differed from its initial projections in the following aspects:

<u>Month</u>	<u>Revised Forecast (Mcf's)</u>	<u>Actual Volumes (Mcf's)</u>	<u>Percent Difference</u>	<u>Weather Deviation</u>
Dec.	2,993,567	3,045,481	2%	1% (colder than normal)
Jan.	3,581,319	3,630,109	1%	-2% (warmer than normal)
Feb.	2,972,628	2,679,123	-10%	-3.5% (warmer than normal)
Mar.	<u>2,773,167</u>	<u>1,790,373</u>	<u>-35%</u>	-16% (warmer than normal)
	12,320,681	11,145,086	-9.5%	

Although the Company revised its sales projections for the months December through March, it never-the-less ended the period with an under-recovery. The primary reasons for this were:

1. the continued unforeseen migration of sales customers from GCR service to Gas Customer Choice . . . ;
2. March's unseasonably warm weather . . . ; and
3. January and February's actual prices being higher than December's NYMEX forecasted prices . . . .

\* \* \*

[T]he Company believes that it took all action that it could reasonably and prudently implement, given the circumstances existing at the time adjustments to the billed factors were made. The following is a listing of those actions:

1. With the aid of WPS Regulatory Affairs and Gas Supply personnel through an iterative process commencing in October 2008 continuing through July 2009, a new forecasting model was

developed to calculate the GCR factor . . . . The new model was designed to insure that the Company's gas supply costs included all the fixed price purchases contracted for and improved the accuracy of the gas supply projections

2. Then again in August, the Company adjusted its sales forecast in an effort to reflect updated customer usage.

3. Also in August, the Company revised its GCR sales forecasts to address the then known migration of GCR customers to GCC service.

4. The Company adjusted its GCR factor eight out of twelve months during the GCR period and each month from January through March.

At 2 Tr 102, the Attorney General's witness, Mr. Coppola, notes that MGUC ended the Plan year with an under-recovery of \$3,860,325, ended the 2008/2009 year with an under-recovery of \$4,791,239, and ended the 2007/2008 year with an under-recovery of \$13,724,171. Mr. Coppola continues, at 2 Tr 105-06, by explaining the circumstances that he believes caused the Plan year's under-recovery:

First, in August 2009 the Company updated the GCR sales forecast . . . for the remainder of the GCR period. Exhibit AG-1 Line 4, column (d), in the updated forecast for March 2010 shows an increase of 224,704 Mcf in GCR and related volumes from the original GCR plan forecast. This unusual and unexplained increase appears to be a forecasting error and contributed to an inflated GCR sales forecast for March on which the Company apparently relied to set the March 2010 GCR factor.

Second, an analysis and reconciliation of the February and March 2010 actual GCR sales volumes to the August 2009 updated forecast shows an unexplained variance of 731,280 Mcf. As shown in Exhibit AG-1, lines 14 through 17, weather and GCC volumes account for approximately 489,000 Mcf of the raw variance of 1,220,753 Mcf between actual results for February and March and the August 2009 updated forecast. The remainder appears to be a large inaccuracy in the forecast model. This inaccuracy of approximately 13% is more pronounced in the August 2009 updated forecast, but also exists in the initial GCR plan forecast.

Mr. Coppola concludes, at 2Tr 106-07, that:

The Company's forecast model is providing a significantly inaccurate forecast of GCR sales on which the Company relied to set its GCR factor. Furthermore, I am struck by the fact that the Company did not update its GCR sales forecast more frequently. Performing a forecast update only in August 2009 and not updating that forecast again in subsequent months when it was clear by December 2009 and January 2010 that GCC program participation was reaching much higher levels is perplexing. If the Company had taken intervening sales information into account in setting its billed factors, it could have significantly reduced the amount of under-recovery. The Company's MPSC-approved GCR factor was \$7.3231 which it reduced to \$6.75 in January 2010 and kept below the maximum allowed level for 10 of the 12 months of the 2009/2010 GCR period.

Although the Company has made some modifications and improvements to the way it goes about setting the monthly GCR factor, the Company still relied on outdated information to set its billed factors. . . .

Mr. Coppola recommends "disallowing the recovery of interest [in the amount of \$15,220] because the interest expense resulted from unreasonable and imprudent effort[s] to minimize GCR costs resulting from interest calculations." 2 Tr 108.

In response to Mr. Coppola, at 2 Tr 4, MGUC's, Mr. Tyler explained the process MGUC used to set its GCR factor:

As the result of significant internal changes, the Company has been progressively successful in reducing year-end under-recoveries, e.g. 2007-08 under-recovered amount was \$13,837,103; 2008-09 under-recovered amount was \$5,281,956; 2009-10 under-recovered amount was \$3,875,545. These internal changes included a new forecasting model . . . and periodic updating of sales forecasts during the plan years. . . .

. . . [I]n determining the factor to . . . bill generally, each month the following process is followed:

- 1) The initial step is to prepare and complete the monthly 45-Day Report to the MPSC. This report serves as the basis for determining the cumulative balance of the Company's over/(under)-recovery. . . .

- 2) The second step is to review the projected sales volume forecast for the remaining months of the GCR period. . . . The

forecast is then reviewed to see if it needs to be updated. The updates would include a review of the following:

- a. The current number of customers billed as part of the Company's Choice program. (These numbers are provided by the Company's billing partner Vertex.)

- b. This is then compared to the projected number of customers that are anticipated to enroll in the Choice program during the upcoming months. (This is discussed with Gas Supply, the Company's Marketing Managers and the Company's billing partner Liaison.)

- c. The Company also reviews its forecast of "Billed and Unbilled volumes", as provided by the Accounting department, in order to arrive at each month's "calendar" sales.

3) . . . [N]ext . . . the Company update[s] its forecast of citygate commodity costs, based upon the most current NYMEX price projections. . . .

4) Next, in conjunction with Gas Supply, the same NYMEX price projections are applied to the Company's storage gas costs. The Company takes into consideration its current weighted average cost of gas ("WACOG") and for any incremental storage gas purchases that are anticipated to be made during the balance of the GCR period, the NYMEX prices are applied.

5) The Company's GCR Forecast model is then updated with the various components identified in steps 1 through 4 above. The model is then run in order to determine the GCR factor to be charged during the remaining months of the GCR period, which will result in a cumulative over/(under)-recovery balance of zero.

6) Finally, the recommended GCR factor is reviewed by the Company's Management personnel . . . . Several factors are considered during this process which include:

- a. The amount of change from the previous month's factors. .

..

- b. How close to zero will this bring the projected balance. . . .

- c. Whether the MPSC has any directives or preferences regarding the billed GCR factor. . . .

- d. Has the current weather been warmer or colder than normal?

Once all of these steps have been completed and Management has finished its review, the Company then informs the MPSC and its Billing partner of the rate that it will bill in the next month.

### Storage Utilization

At 2 Tr 72-74, MGUC's witness, Mr. Huzzey established the following. MGCU started and ended the Plan year with greater inventory than called for in the Plan at its storage fields. MGUC was able to lower excessive initial inventory for all its storage fields by September of the Plan year. However, its Washington 10 storage field saw inventory deviations of greater than 20% from Plan in February and March of the year. This was caused by warmer than normal temperatures and the fields ability to deliver to only one portion of the distribution system. Additionally, MGUC completed a technical review of its MGCU Partello and Anderson storage reservoirs to address "water encroachment problems". Based on the report, actions were taken to leave additional gas in MGUC storage.

At 2 Tr 118-22, the Attorney General's witness, Mr. Coppola, testifies about MGUC's storage. He notes that MGUC "had planned to end the GCR year with gas in storage of 596,817 Mcf. Instead, [MGUC] ended the year with 2,301,119 Dth . . . or more than 380% above the Plan. 2 Tr 118 Mr. Coppola states that MGUC "has significantly more storage capacity than it plans to use" and he is "left wanting for more definitive plans on the part of the Company to resolve the water encroachment problem in its storage fields and the shedding of excess storage capacity through short-term storage sales to third parties." 2 Tr 121. Mr. Coppola recommends that the Commission require MGUC to file "a plan within 30 days from the date of its order that defines a timeline and specific activities to: a. Return the MGUC storage reservoirs to full use [and]

b. Market excess storage capacity from Washington 10 and other storage fields for the benefit of GCR customers.” 2 Tr 121-22. In addition, he recommends that the Commission put MGUC “on notice that significant underutilization of storage assets could lead to GCR disallowances in future cases.” 2 Tr 122.

RRC’s witness, Mr. Hollewa, states that he does not believe MGUC had any “opportunities to reduce purchases in order to increase storage withdrawals.” 2 Tr 173. He indicates that the decreased storage utilization “was due to reduced GCR requirements caused by load attrition due to increased conservation, increased GCC participation and warmer-than-normal weather in late February and March . . . .” 2 Tr 173.

#### Non-core Sales of Gas

MGUC made non-core sales of gas in June, July, August, December, January, and March of the Plan year. The sales’ net benefit to customers was \$635.96. 2 Tr 71. Exh. A-11. The June, July, August, and March sales were made for operational reasons. 2 Tr 71. The July and August sales were required because of curtailments of firm capacity by the Panhandle Eastern Pipeline Company (PEPL) for maintenance work. 2 Tr 71. The July sale resulted in a loss of \$10,200.61 and the August sale resulted in a loss of \$112,916.72. The Attorney General challenges the cost of the August sale.

At 2 Tr 115-16, the Attorney General’s witness, Mr. Coppola addressed the July and August sales by testifying that:

I believe the Company did not exercise sufficient foresight and prudence in continuing to buying [sic] gas at the level that it did during a period of time when it knew or should have known that

PEPL was going to curtail at least a portion of its transportation capacity.

. . . The Company has stated that these sales were necessary as a result of PEPL performing maintenance on its pipeline and curtailing transportation capacity, therefore making it impossible for the Company to transport all of its gas purchases.

Almost concurrently in July and August 2009, the Company purchased 158,537 Dth and 151,830 Dth respectively to ship on PEPL in addition to fixed price purchases for which it had previously contracted.

[MGUC] stated that it first received notice of potential transportation curtailment from PEPL on May 4, 2009. According to the Company, it received additional notices for curtailment from PEPL throughout the summer of 2009. But, it appears the first significant curtailment occurred in July 2009. . . .

Although I can understand that the Company may not have being [sic] able to determine beforehand the exact amount of curtailment that resulted in the July sale of supply and small loss, I find it more difficult to accept the much larger sale of gas supply in August. With the Company knowing that curtailment could occur at any time during the summer period and not needing the total amount of gas purchased for sale to its market area during the summer, it should have reduced its August purchases and thus avoided or significantly reduced any potential losses from resale.

Mr. Coppola recommends “that the Commission . . . exclude \$112,917 for off-system sale losses from recovery in this GCR reconciliation.” 2 Tr 117.

In response, at 2 Tr 86-88, MGUC’s witness, Mr. Huzzey provides rebuttal testimony addressing a number of Mr. Coppola’s assertions. Most importantly, Mr. Huzzey established, at 2 Tr 87-88, that:

[MGUC] had an obligation entered into in the fall of 2008 to purchase three fixed price PEPL packages of 3,000 Dth/d during August of 2009. The 22,664 Dth sold in August represented a portion of these fixed price supply packages. The cuts to the index priced supply were not resold, as this supply was purchased for August with the understanding that the Company would purchase only the volumes that were not cut by PEPL. This clearly demonstrates that . . . the off system sales that occurred in August of 2009 were unavoidable cuts to supplies purchased eleven months before any PEPL constraint notices were received.

## **POSITIONS OF THE PARTIES**

### **Introduction**

Pursuant to MCL 460.6h(12), MGUC seeks approval to reconcile a \$3,875,545 under-recovery for the GCR year ending March 31, 2010. MGUC proposes to roll-in the under-recovery to its current GCR costs, pursuant to Tariff Rule C10.2(b). “MGUC submits that Act 304, Commission precedent and the preponderance of the competent record evidence support approval of the Company’s reconciliation case and the collection of the \$3,875,545 under-recovery.” MGUC Init Br, p 1.

The Attorney General challenges MGUC’s position on three points. The Attorney General argues for the disallowance of a \$15,220 interest charge, of \$112,917 for the non-core sale of gas, and recommends a separate filing, by MGUC, to address gas storage utilization.

### **Interest Disallowance**

The Attorney General argues that “MGUC could have avoided the majority of the interest charges . . . by not reducing the billed GCR factors . . . so far below the MPSC-authorized GCR factors . . . .” AG Initial Brief, p 13. As the Attorney General sees it, “if MGUC had prudently managed its billed factors, then its revenues could have matched its actual expenses and avoided the extra interest charges . . . .” AG Initial Brief, p 13. The Attorney General continues by noting that this is the third year in a row that MGUC has under-recovered and that its

witness, Mr. Coppola, “has reasonably recommended disallowing recovery of the additional interest . . . . AG Initial Brief, p 13.

MGUC argues, in part, that, pursuant to MCL 460.6h(15), “[a]s a matter of law, the Commission is required to provide for the recovery of interest” MGUC Init Br, p 5.

#### Disallowance for Sale of Gas on Spot Market

The Attorney general argues that MGUC admits it “sold some excess gas supplies at a loss.” AG Init Br, p 13. The Attorney General notes that his witness, Mr. Coppola, “testified that MGUC could and should have avoided buying some of the excess gas supplies”. AG Init Br, p 13. “Therefore, [the Attorney General argues,] the Commission should disallow the resulting loss”.

MGUC argues that, through the testimony of its witness, Mr. Huzzey, it established that “the notices were insufficient to identify with any accuracy how MGUC would be affected by the proposed curtailment. MGUC continues by arguing, at MGUC Init Br, p 11, that:

Mr. Huzzey observed that the circumstances surrounding the notices for August were identical to those in July, for which the AG did not recommend a disallowance because in Mr. Coppola’s words, the Company probably could “not have being [sic] able to determine beforehand the exact amount of curtailment that resulted in the July sale of supply...”.

#### Storage Utilization

At AG Init Br, p 15 (citation omitted), the Attorney General argues that: “Mr. Coppola testified that MGUC’s utilization of storage has created significant and expensive additions to GCR costs. Mr. Huzzey has acknowledged that the

Company is working on those problems. Based upon the whole record, the Commission should adopt Mr. Coppola's recommendation to present a plan for addressing storage utilization."

In response, MGUC argues that the record does not support the Attorney General's assertion that MGUC's storage utilization "has created significant and expensive additions to GCR costs". MGUC Rep Br, p 7. MGUC argues that it is taking action to address the problem of water encroachment in its storage fields and that the relief requested by the Attorney General's witness is "not feasible". MGUC Rep Br, p 9. MGUC continues by arguing that the filing of a storage plan outside a GCR proceeding "makes little sense" and the Attorney General "has failed to provide any justification as to why storage utilization issues cannot be adequately addressed in pre-existing GCR proceedings." MGUC Rep Br, p 10. MGUC notes that the topic is currently being addressed in Case No. U-16481, where Mr. Coppola testified that he was "pleased the Company has taken action to release . . . and . . . not . . . replace . . . unneeded capacity". MGUC Rep Br, p 10. Case No. U-16481, 2 TR 346.

## **DISCUSSION**

### **Statutory Provisions**

MCL 460.6h states, in part:

(12) Not less than once a year, and not later than 3 months after the end of the 12-month period covered by a gas utility's gas cost recovery plan, the commission shall commence a proceeding, to be known as a gas cost reconciliation . . . At the gas cost reconciliation the commission shall reconcile the revenues recorded pursuant to the gas cost recovery factor and the allowance for cost

of gas included in the base rates established in the latest commission order for the gas utility with the amounts actually expensed and included in the cost of gas sold by the gas utility. The commission shall consider any issue regarding the reasonableness and prudence of expenses for which customers were charged if the issue could not have been considered adequately at a previously conducted gas supply and cost review.

(13) In its order in a gas cost reconciliation, the commission shall require a gas utility to refund to customers or credit to customers' bills any net amount determined to have been recovered over the period covered in excess of the amounts determined to have been actually expensed by the utility for gas sold, and to have been incurred through reasonable and prudent actions not precluded by the commission order in the gas supply and cost review. Such refunds or credits shall be apportioned among the customers of the utility utilizing procedures that the commission determines to be reasonable. The commission may adopt different procedures with respect to customers served under the various rate schedules of the utility and may, in appropriate circumstances, order refunds or credits in proportion to the excess amounts actually collected from each such customer during the period covered.

(14) In its order in a gas cost reconciliation, the commission shall authorize a gas utility to recover from customers any net amount by which the amount determined to have been recovered over the period covered was less than the amount determined to have been actually expensed by the utility for gas sold, and to have been incurred through reasonable and prudent actions not precluded by the commission order in the gas supply and cost review. For excess costs incurred through actions contrary to the commission's gas supply and cost review order, the commission shall authorize a utility to recover costs incurred for gas sold in the 12-month period in excess of the amount recovered over the period only if the utility demonstrates by clear and convincing evidence that the excess expenses were beyond the ability of the utility to control through reasonable and prudent actions. For excess costs incurred through actions consistent with commission's gas supply and cost review order, the commission shall authorize a utility to recover costs incurred for gas sold in the 12-month period in excess of the amount recovered over the period only if the utility demonstrates that the excess expenses were reasonable and prudent. Such amounts in excess of the amounts actually recovered by the utility for gas sold shall be apportioned among and charged to the customers of the utility utilizing procedures that the commission determines to be reasonable. The commission may adopt different procedures with respect to customers served under the various rate schedules of the utility and may, in appropriate circumstances,

order charges to be made in proportion to the amounts which would have been paid by such customers if the amounts in excess of the amounts actually recovered by the utility for gas sold had been included in the gas cost recovery factors with respect to such customers during the period covered. Charges for such excess amounts shall be spread over a period that the commission determines to be appropriate.

(15) If the commission orders refunds or credits pursuant to subsection (13), or additional charges to customers pursuant to subsection (14), in its final order in a gas cost reconciliation, the refunds, credits, or additional charges shall include interest and shall be apportioned among the utility's customer classes in proportion to their respective usage during the reconciliation period. In determining the interest included in a refund, credit, or additional charge pursuant to this subsection, the commission shall consider, to the extent material and practicable, the time at which the excess recoveries or insufficient recoveries, or both, occurred. The commission shall determine a rate of interest for excess recoveries, refunds, and credits equal to the greater of the average short-term borrowing rate available to the gas utility during the appropriate period, or the authorized rate of return on the common stock of the gas utility during that same period. The commission shall determine a rate of interest for insufficient recoveries and additional charges equal to the average short-term borrowing rate available to the gas utility during the appropriate period.

### Interest Disallowance

MGUC correctly argues that, as a matter of law, the Commission is required to provide for the recovery of interest. Pursuant to MCL 460.6h(15), “[i]f the commission orders . . . additional charges to customers[,] . . . the . . . additional charges shall include interest . . . .” Thus, permitting the inclusion of interest is not a discretionary act for the Commission. Rather, as the statute says, if the Commission allows for the recovery of cost in an under-recovery situation, the recovery shall include interest. No party to this case argues that the interest was calculated incorrectly. Therefore, the Attorney General’s request must be denied.

### Non-Core Sale of Gas

The Attorney General calls for a disallowance of \$112,917 for the non-core sale of gas. As the Attorney General would have it, MGUC unreasonably purchased gas after receiving notice of a pipeline curtailment that it knew would require it to sell a portion of that gas on the spot market. However, the Attorney General's argument is premised upon a factually incorrect foundation. The gas that was curtailed was gas for which MGUC had entered into contracts, in the Fall of 2008, for August delivery. At the time of contracting, MGUC had no notice of any possible curtailments. The gas that was purchased after notice of the possible curtailments was not subject to re-sale because MGUC agreed to purchase only the volumes that were not curtailed by PEPL. Thus, the non-core sales involved gas that MGUC had agreed to purchase long before any notice of possible curtailments had been made. Under the circumstance, these non-core sales were reasonable and a disallowance is unwarranted.

### Storage Utilization

The Attorney General is asking the Commission to issue an order requiring MGUC to file, within 30 days, a plan that defines a timeline and specific activities to "return" MGUC storage reservoirs to "full use" and to market excess storage capacity. MGUC believes this is unrealistic and that the matter is better addressed in ongoing GCR Plan litigation.

MGUC presents the better argument. This case was filed nearly 16 months ago. Since that time, it appears that the circumstances that led to the

Attorney General's request have changed. While there appears to be nothing that would bar the Attorney General's request, the request is denied. As MGUC points out, the issue is being addressed, at least in part, in Case No. U-16481. That seems the appropriate venue to address the issue and to determine whether additional filings are required.

### **CONCLUSION**

From the record, as a whole, it appears that MGUC's actual expenses for gas sold during the Plan year ending March 31, 2010, were incurred through reasonable and prudent actions not precluded under the Commission approved Plan and, for the reasons stated above, MGUC's Application is approved.

MGUC's cumulative under-recovered balance, plus accrued interest, for the Plan year ending March 31, 2010, was \$3,875,545. MGUC shall roll-in the under-recovery to its current GCR costs, pursuant to Tariff Rule C10.2(b).

Any evidence and arguments not specifically addressed in this Proposal for Decision were deemed irrelevant to the findings and conclusions of this matter.

MICHIGAN ADMINISTRATIVE HEARING  
SYSTEM  
For the Michigan Public Service Commission

---

Mark D. Eyster  
Administrative Law Judge

ISSUED AND SERVED: October 7, 2011  
drr